

## Instructions for Form 2106

### Employee Business Expenses

**Note:** Georgia does not allow any additional depreciation benefits provided by IRC Section 168(k) and 1400L or any additional depreciation benefits provided in 2003 by the Federal Government. Georgia has not adopted any provisions of the Working Families Tax Relief Act of 2004 or the American Jobs Creation Act of 2004.

## General Instructions

### Changes to Note

**Standard Mileage Rate.** The standard mileage rate is 37.5 cents for each mile of business use in 2004.

**Limit on depreciation and the IRC section 179 deduction.** The first-year limit on depreciation and the IRC section 179 deduction for most vehicles is \$2,960.

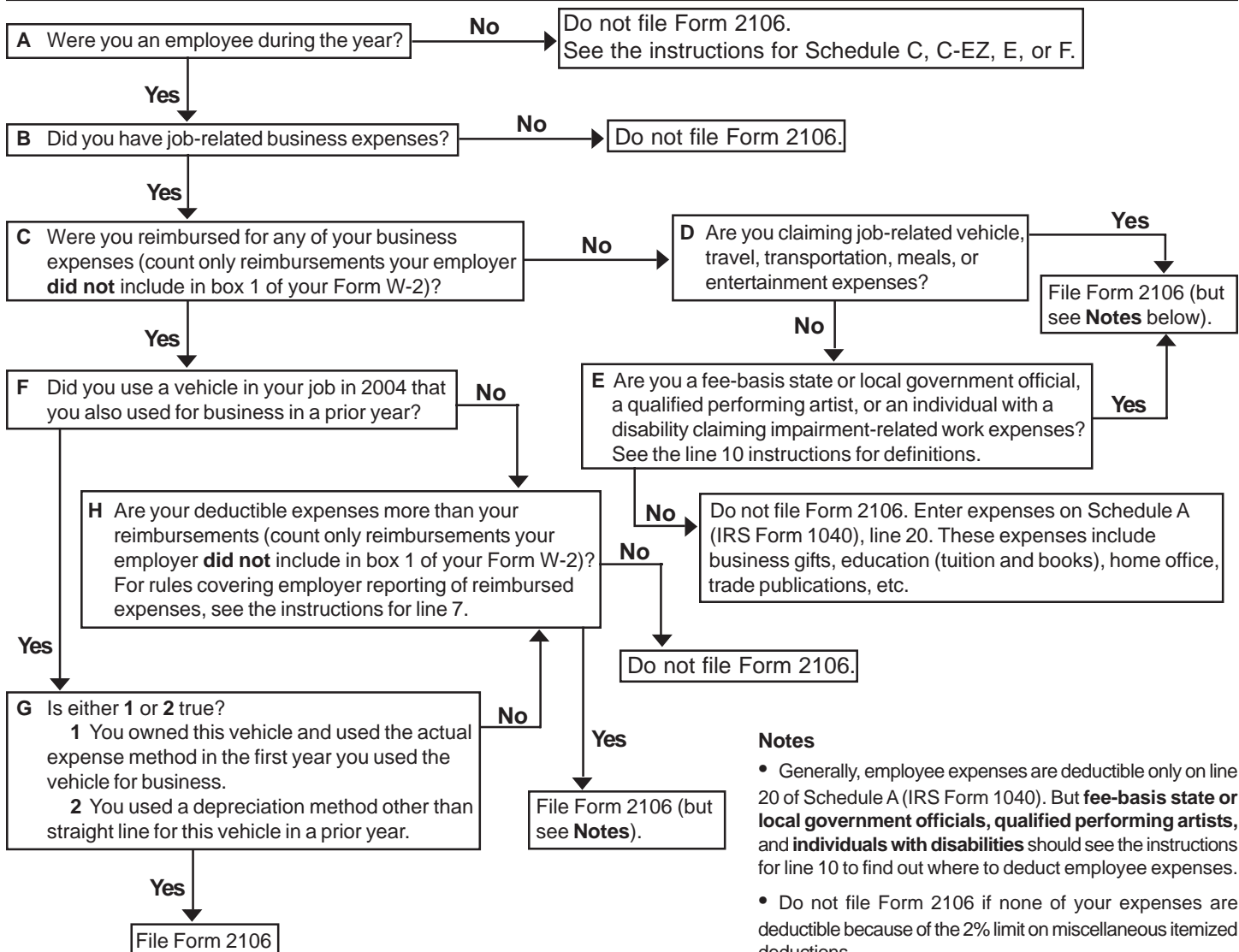
For trucks and vans, the first-year limit is increased by \$300 to \$3,260.

### Purpose of Form

Use Form 2106 if you are an employee deducting ordinary and necessary expenses for your job. See the flowchart below to find out if you must file this form.

An ordinary expense is one that is common and accepted in your field of trade, business, or profession. A necessary expense is one that is helpful and appropriate for your business. An expense does not have to be required to be considered necessary.

### Who Must File Form 2106



### Notes

- Generally, employee expenses are deductible only on line 20 of Schedule A (IRS Form 1040). But **fee-basis state or local government officials, qualified performing artists, and individuals with disabilities** should see the instructions for line 10 to find out where to deduct employee expenses.
- Do not file Form 2106 if none of your expenses are deductible because of the 2% limit on miscellaneous itemized deductions.

## Recordkeeping

You cannot deduct expenses for travel (including meals unless you used the standard meal allowance), entertainment, gifts, or use of a car or other listed property, unless you keep records to prove the time, place, business purpose, business relationship (for entertainment and gifts), and amounts of these expenses. Generally, you must also have receipts for all lodging expenses (regardless of the amount) and any other expense of \$75 or more.

## Additional Information

For more details about employee business expenses, see:

**IRS Pub. 463**, Travel, Entertainment, Gift, and Car Expenses.

**IRS Pub. 529**, Miscellaneous Deductions.

**IRS Pub. 587**, Business Use of Your Home (Including Use by Daycare Providers).

**IRS Pub. 946**, How To Depreciate Property.

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## Specific Instructions

### Part I - Employee Business Expenses and Reimbursements

Fill in **all** of Part I if you were reimbursed for employee business expenses. If you were not reimbursed for your expenses, skip line 7 and complete the rest of Part I.

#### Step 1 - Enter Your Expenses

**Line 1.** If you were a rural mail carrier, your deduction for vehicle expense is equal to your equipment maintenance allowance. This rule applies to you if you were an employee of the United States Postal Service (USPS) who performed services involving the collection and delivery of mail on a rural route. You also must have received the

equipment maintenance allowance under a collective bargaining agreement between the USPS and the National Rural Letter Carriers' Association, paid at a rate contained in the 1991 collective bargaining agreement, adjusted for inflation.

If this rule applies to you, you should complete Form 2106 only if you have expenses to deduct other than vehicle expenses.

**Line 2.** See the line 15 instructions for the definition of commuting.

**Line 3.** Enter lodging and transportation expenses connected with overnight travel away from your tax home (defined later). **Do not** include expenses for meals and entertainment. For more details, including limits, see IRS Pub. 463.

Instead of keeping records of your actual incidental expenses, you can use an **optional method for deducting incidental expenses only** if you did **not** pay or incur meal expenses on a day you were traveling away from your tax home. The amount of the deduction is \$2 a day for the period from January 1 through October 31, 2004, and \$3 a day for the period from November 1 through December 31, 2004. Incidental expenses include fees and tips given to porters, baggage carriers, bellhops, hotel maids, stewards or stewardesses and others on ships, and hotel servants in foreign countries. They do **not** include expenses for laundry, cleaning and pressing of clothing, lodging taxes, or the costs of telegrams or telephone calls. You cannot use this method on any day that you use the standard meal allowance (as explained in the instructions for line 5).

Generally, you cannot deduct any expenses for travel away from your tax home for any period of temporary employment of more than 1 year. However, this rule does not apply for any period in which you were a Federal employee certified by the Attorney

General as traveling in temporary duty status for the U.S. government to investigate or prosecute a Federal crime (or to provide support services for the investigation or prosecution of that crime).

Generally, your **tax home** is your main place of business or post of duty regardless of where you maintain your family home. If you do not have a regular or main place of business because of the nature of your work, then your tax home is the place where you regularly live. If you do not fit in either of these categories, you are considered an itinerant and your tax home is wherever you work. As an itinerant, you are never away from home and cannot claim a travel expense deduction. For more details on your tax home, see IRS Pub. 463.

**Line 4.** Enter other job-related expenses not listed on any other line of this form. Include expenses for business gifts, education (tuition and books), home office, trade publications, etc. For details, including limits, see IRS Pub. 463 and IRS Pub. 529. **Do not** include on line 4 any tuition and fees you deducted on IRS Form 1040, line 26 or any educator expenses you deducted on IRS Form 1040, line 23.

If you are deducting home office expenses, see IRS Pub. 587 for special instructions on how to report these expenses.

If you are deducting depreciation or claiming an IRC section 179 deduction for a cellular telephone or other similar telecommunications equipment, a home computer, etc., see **Form 4562**, Depreciation and Amortization, to figure the depreciation and IRC section 179 deduction to enter on line 4.

Do not include expenses for meals and entertainment, taxes, or interest on line 4. Deductible taxes are entered on lines 5 through 9 of Schedule A (IRS Form 1040). Employees cannot deduct car loan interest.

**Note:** If line 4 is your only entry, do not complete Form 2106, unless you are claiming:

- Expenses for performing your job as a fee-basis state or local government official,
- Performing-arts-related business expenses as a qualified performing artist, or
- Impairment-related work expenses as an individual with a disability.

See the line 10 instructions for definitions. If you are not required to file Form 2106, enter your expenses directly on Schedule A (IRS Form 1040), line 20.

**Line 5.** Enter your allowable meals and entertainment expense. Include meals while away from your tax home overnight and other business meals and entertainment. Instead of actual cost, you may be able to claim the **standard meal allowance** for your daily meals and incidental expenses while away from your tax home overnight. Under this method, you deduct a specified amount, depending on where you travel, instead of keeping records of your actual meal expenses. However, you must still keep records to prove the time, place, and business purpose of your travel.

The standard meal allowance is the Federal M&IE rate. For most small localities in the United States, this rate is \$30 a day for the period from January 1 through September 30, 2004, and \$31 a day for the period from October 1 through December 31, 2004. Most major cities and many other localities in the United States are designated as high-cost areas and qualify for higher rates. You can find these rates on the Internet at [www.policyworks.gov/perdiem](http://www.policyworks.gov/perdiem). Click on "2004 Domestic Per Diem Rates" for the period January 1, 2004 - September 30, 2004, and on "2005 Domestic Per Diem Rates" for the period from October 1, 2004 - through December 31, 2004. However, you may apply the rates in effect before October 1, 2004, for expenses of all travel within the United States for 2004 instead of the

updated rates. You must consistently use either the rates for the first 9 months of 2004 or the updated rates for the period of October 1, 2004, through December 31, 2004.

For locations outside the continental United States, the applicable rates are published monthly. You can find these rates on the Internet at [www.state.gov/m/a/als/prdm/2003](http://www.state.gov/m/a/als/prdm/2003).

See IRS Pub. 463 for details on how to figure your deduction using the standard meal allowance, including special rules for partial days of travel, transportation workers, and taxpayers related to their employer.

## Step 2 - Enter Reimbursements Received From Your Employer for Expenses Listed in Step 1

**Line 7.** Enter reimbursements received from your employer (or third party) for expenses shown in Step 1 that were **not** reported to you in box 1 of your Form W-2. This includes reimbursements reported under code "L" in box 12 of Form W-2. Amounts reported under code "L" are certain reimbursements you received for business expenses that were not included as wages on Form W-2 because the expenses were treated as meeting specific IRS substantiation requirements.

Generally, when your employer pays for your expenses, the payments should not be included in box 1 of your Form W-2 if, within a reasonable period of time, you:

- Accounted to your employer for the expenses and
- Were required to return, and did return, any payment not spent (or considered not spent) for business expenses.

If these payments were included in box 1, ask your employer for a corrected Form W-2.

**Accounting to your employer** means that you gave your employer documentary evidence and an account book, diary, or

similar statement to verify the amount, time, place, and business purpose of each expense. You are also treated as having accounted for your expenses if either of the following applies:

- Your employer gave you a fixed travel allowance that is similar in form to the per diem allowance specified by the Federal Government and you verified the time, place, and business purpose of each expense.
- Your employer reimbursed you for vehicle expenses at the standard mileage rate or according to a flat rate or stated schedule, and you verified the date of each trip, mileage, and business purpose of the vehicle use.

See IRS Pub. 463 for more details.

### **Allocating your reimbursement.**

If your employer paid you a single amount that covers meals and entertainment as well as other business expenses, you must allocate the reimbursement so that you know how much to enter in Column A and Column B of line 7. Use the following worksheet to figure this allocation.

#### **Worksheet** (keep for your records)

1. Enter the total amount of reimbursements your employer gave you that **were not** reported to you in box 1 of Form W-2 .....
2. Enter the total amount of your expenses for the periods covered by this reimbursement .....
3. Of the amount on line 2, enter your total expense for meals and entertainment .....
4. Divide line 3 by line 2. Enter the result as a decimal (rounded to at least three places) .....
5. Multiply line 1 by line 4. Enter the result here and in Column B, line 7 .....
6. Subtract line 5 from line 1. Enter the result here and in Column A, line 7 .....



### Step 3 - Figure Expenses To Deduct on Schedule A (IRS Form 1040)

**Line 9.** Generally, you may deduct only 50% of your business meal and entertainment expenses, including meals incurred while away from home on business. If you were an employee subject to the Department of Transportation (DOT) hours of service limits, that percentage is increased to 70% for business meals consumed during, or incidental to, any period of duty for which those limits are in effect.

Employees subject to the DOT hours of service limits include certain air transportation employees, such as pilots, crew, dispatchers, mechanics, and control tower operators; interstate truck operators and interstate bus drivers; certain railroad employees, such as engineers, conductors, train crews, dispatchers, and control operations personnel; and certain merchant mariners.

**Line 10 - Special rules.** If you are a **reservist** (member of a reserve component - defined below), enter the part of the line 10 amount attributable to the expenses for travel more than 100 miles away from home in connection with your performance of services as a reservist on Form 1040, line 24, and attach Form 2106 to your return.

**Member of a reserve component.** You are a member of a reserve component of the Armed Forces of the United States if you are in the Army, Naval, Marine Corps, Air Force, or Coast Guard Reserve; the Army National Guard of the United States; the Air National Guard of the United States; or the Reserve Corps of the Public Health Service.

**Additional information.** See IRS Pub. 463 for additional details on how to report these expenses.

If you were a **qualified performing artist** (defined below), enter the part of the line 10 amount attributable to performing-arts-related expenses on Form 1040, line 24, and attach Form 2106 to your return. Your performing-arts-related business expenses are deductible whether or not you itemize deductions.

A qualified performing artist is an individual who:

1. Performed services in the performing arts as an employee for at least two employers during the tax year,
2. Received from at least two of those employers wages of \$200 or more per employer,
3. Had allowable business expenses attributable to the performing arts of more than 10% of gross income from the performing arts, and
4. Had adjusted gross income of \$16,000 or less before deducting expenses as a performing artist.

To be treated as a qualified performing artist, a married individual must also file a joint return, unless the individual and his or her spouse lived apart for all of 2004. On a joint return, requirements (1), (2), and (3) must be figured separately for each spouse. However, requirement (4) applies to the combined adjusted gross income of both spouses.

If you were a **fee-basis state or local government official** (defined on page 4), enter the part of the line 10 amount attributable to the expenses you incurred for services performed in that job on Form 1040, line 24, and attach Form 2106 to your return. Your employee business expenses are deductible whether or not you itemize deductions. A fee-basis state or local government official who is an employee of a state or political subdivision of a state and is compensated, in whole or in part, on a fee basis.

If you were an **individual with a disability** and are claiming impairment-related work expenses (defined below), enter the part of the line 10 amount attributable to those expenses on Schedule A, line 27, instead of on Schedule A, line 20. Your impairment-related work expenses are not subject to the 2% limit that applies to most other employee business expenses.

**Impairment-related work expenses** are the allowable expenses of an individual with physical or mental disabilities for attendant care at his or her place of employment. They also include other expenses in connection with the place of employment that enable the employee to work.

See IRS Pub. 463 for more details.

### Part II - Vehicle Expenses

There are two methods for computing vehicle expenses--the standard mileage rate and the actual expense method. You can use the standard mileage rate for 2004 **only** if:

- You owned the vehicle and used the standard mileage rate for the first year you placed the vehicle in service or
- You leased the vehicle and are using the standard mileage rate for the entire lease period (except the period, if any, before 1998).

You cannot use actual expenses for a leased vehicle if you previously used the standard mileage for that vehicle.

You must use the same method for computing vehicle expenses for Georgia tax purposes as you did for Federal tax purposes.

If you were a rural mail carrier and received an equipment maintenance allowance, see the line 1 instructions.

For more information on the standard mileage rate and actual expenses, see IRS Pub. 463.

### Section A - General Information

If you used two vehicles for business during the year, use a separate column in Sections A, C, and D for each vehicle. If you used more than two vehicles, attach a statement using the format in Sections A, C, and D.

**Line 11.** Date placed in service is generally the date you first start using your vehicle. However, if you first start using your vehicle for personal use and later convert it to business use, the vehicle is treated as placed in service on the date you started using it for business.

**Line 12.** Enter the total number of miles you drove each vehicle during 2004. But if you converted your vehicle during the year from personal to business use (or vice versa), enter the total miles for only the months you drove the vehicle for business.

**Line 13.** Do not include commuting miles on this line; commuting miles are not considered business miles. See the line 15 instructions for the definition of **commuting**.

**Line 14.** Divide line 13 by line 12 to figure your business use percentage. However, if you converted your vehicle during the year from personal to business use (or vice versa), multiply this percentage by the number of months you drove the vehicle for business and divide the result by 12.

**Line 15.** Enter your average daily round trip commuting distance. If you went to more than one work location, figure the average.

Generally, **commuting** is travel between your home and a work location. However, travel that meets **any** of the following conditions is not commuting:

- You have at least one regular work location away from your home and the travel is to a temporary work location in the same trade or business, regardless of the distance. Generally, a temporary work location is one where your employment is expected to last 1 year or less. See IRS Pub. 463 for more details.
- The travel is to a temporary work location outside the metropolitan area where you live and normally work.
- Your home is your principal place of business under IRC section 280A(c)(1)(A) (for purposes of deducting expenses for business use of your home) and the travel is to another work location in the same trade or business, regardless of whether that location is regular or temporary and regardless of distance.

**Line 16.** If you do not know the total actual miles you used your vehicle for commuting during the year, figure the amount to enter on line 16 by multiplying the number of days during the year that you used each vehicle for commuting by the average daily round trip commuting distance in miles. However, if you converted your vehicle during the year from personal to business use (or vice versa), enter your commuting miles only for the period you drove your vehicle for business.

## Section B - Standard Mileage Rate

You may be able to use the standard mileage rate instead of actual expenses to figure the deductible costs of operating a passenger car, including a van, pickup, or panel truck.

If you want to use the standard mileage rate for a vehicle you own, you must do so in the first year you place your vehicle in service. In later years, you may deduct actual expenses instead, but you may not use a depreciation method other than straight line.

If you lease your vehicle, you may use the standard mileage rate, but only if you use the rate for the entire lease period (except for the period, if any, before January 1, 1998).

You may also deduct state and local personal property taxes. Enter these taxes on Schedule A (IRS Form 1040), line 7.

If you are claiming the standard mileage rate for mileage driven in more than one business activity, you must figure the deduction for each business on a separate form or schedule (for example, Form 2106 or Schedule C, C-EZ, E, or F).

## Section C - Actual Expenses

**Line 23.** Enter your total annual expenses for gasoline, oil, repairs, insurance, tires, license plates, or similar items. Do not include state and local personal property taxes or interest expense you paid. Deduct state and local personal property taxes on Schedule A (IRS Form 1040), line 7. Employees cannot deduct car loan interest.

**Line 24a.** If during 2004 you rented or leased instead of using your own vehicle, enter the cost of renting. Also, include on this line any temporary rentals, such as when your car was being repaired, except for amounts included on line 3.

**Line 24b.** If you leased a vehicle for a term of 30 days or more after June 18, 1984, you may have to reduce your deduction for vehicle lease payments by an amount called the **inclusion amount**.

See IRS Pub. 463 to figure the inclusion amount.

**Line 25.** If during 2004 your employer provided a vehicle for your business use and included 100% of its annual lease value in box 1 of your Form W-2, enter this amount on line 25. If less than 100% of the annual lease value was included in box 1 of your Form W-2, skip line 25.

## Section D - Depreciation of Vehicles

Depreciation is an amount you can deduct to recover the cost or other basis of your vehicle over a certain number of years. In some cases, you may elect to expense, under IRC section 179, part of the cost of your vehicle in the year of purchase. For details, see IRS Pub. 463.

Georgia adopted only part of the Job Creation and Worker Assistance Act of 2002 and only part of the Job and Growth Tax Relief Reconciliation Act of 2003; therefore taxpayers may not claim any 30% or 50% "bonus" depreciation. Additionally, depreciation expense under IRC section 179 is limited to \$25,000.

**Line 30.** Enter the vehicle's actual cost (including sales tax) or other basis (unadjusted for prior years' depreciation). If you traded in your vehicle, your basis is the adjusted basis of the old vehicle (figured as if 100% of the vehicle's use had been for business purposes) plus any additional amount you pay for your new vehicle. Reduce your basis by any low or zero emission vehicle credit or IRC Section 179 expense deduction you claimed for this vehicle.

If you converted the vehicle from personal use to business use, your basis for depreciation is the smaller of the vehicle's adjusted basis or its fair market value on the date of conversion.

**Line 31. IRC Section 179 deduction.** If 2004 is the first year your vehicle was placed in service and the percentage on line 14 is more than 50%, you may elect to deduct as an expense a portion of the cost (subject to a yearly limit). To calculate this IRC section 179 deduction, multiply the part of the cost of the vehicle that you choose to expense by the percentage on line 14. The total of your depreciation and IRC section 179 deduction generally cannot be more than the percentage on line 14 multiplied by the applicable limit explained in the line 36 instructions (see page 6). Your IRC section 179 deduction for the year cannot be more than the income from your job and any other active trade or business on your IRS Form 1040. IRC section 179 is limited to \$25,000.



*If you are claiming an IRC section 179 deduction on other property, or you placed more than \$200,000 of IRC section 179 property in service during the year, use Form 4562 to figure your IRC section 179 deduction. Enter the amount of the IRC section 179 deduction allocable to your vehicle (from Form 4562, line 12) on Form 2106, line 31.*

**Note:** For IRC section 179 purposes, the cost of the new vehicle does not include the adjusted basis of the vehicle you traded in.

**Example:**

|   |            |
|---|------------|
| Cost including taxes .....  | \$15,000   |
| Adjusted basis of trade-in .... -   | 2,000      |
| IRC section 179 basis .....   | = \$13,000 |
| Limit on depreciation and<br>IRC section 179 deduction ...                                | \$ 2,960   |
| <i>Smaller of:</i>  |            |
| IRC section 179 basis, or limit<br>on depreciation and IRC<br>section 179 deduction ..... | \$ 2,960   |
| Percentage on line 14 .....   | x .75      |
| IRC section 179 deduction ...   | \$ 2,220   |

**Line 32.** To figure the basis for depreciation, multiply line 30 by the percentage on line 14. From that result, subtract the full amount of any IRC section 179 deduction.

**Line 33.** If you used the standard mileage rate in the first year the vehicle was placed in service and now elect to use the actual expense method, you **must** use the straight line method of depreciation for the vehicle's estimated useful life. Otherwise, use the **IRS**

**Depreciation Method and Percentage Chart.**

**Line 34.** If during the year you did not sell or exchange your vehicle (or you sold or exchanged your vehicle that was placed in service after 1986 and before 1998), multiply line 32 by the percentage on line 33. If during the year you sold or exchanged your vehicle that was placed in service:

- Before 1987, enter -0- on line 34 for that vehicle.
- After 1997, multiply the result for line 34 by 50%, and enter on line 34. However, if you originally placed the vehicle in service during the last 3 months of a year after 1997 (and, if your vehicle was placed in service in 2001, you **did not** make the election under IRS Notice 2001-70), multiply the result for line 34 by the percentage shown below for the month you disposed of the vehicle:

| Month                   | Percentage |
|-------------------------|------------|
| Jan., Feb., March ..... | 12.5%      |
| April, May, June .....  | 37.5%      |
| July, Aug., Sept. ....  | 62.5%      |
| Oct., Nov., Dec. ....   | 87.5%      |

**Line 36.** See IRS passenger limits.